

Exhibit A

**EDUCATIONAL PRODUCTS AND SERVICES
AGREEMENT**

Between

GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT

And

K12 VIRTUAL SCHOOLS LLC

**FOR THE DESTINATIONS CAREER ACADEMY OF NEW MEXICO
AT GALLUP-MCKINLEY COUNTY SCHOOLS
FOR GRADES K THROUGH 12**

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EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT

Between the
GALLUP-MCKINLEY SCHOOL DISTRICT
And
K12 VIRTUAL SCHOOLS LLC

This EDUCATIONAL PRODUCTS AND SERVICES AGREEMENT (“**Agreement**”) is made and entered into, by and between the Gallup-McKinley School District of New Mexico (hereinafter the “**District**”) and K12 Virtual Schools LLC, a Delaware limited liability company (hereinafter “**K12**”), each a “**Party**” together the “**Parties**”, as of the date signed by both Parties, and includes the following exhibits:

- a. Exhibit A (Products and Services)
- b. Exhibit B (K12 Proprietary Marks)
- c. Exhibit C (Form Notice of Intent)

RECITALS

A. **WHEREAS**, the Board of Education for the Gallup-McKinley County Schools is the governing body of the Gallup-McKinley County Schools organized and existing under the laws of the State of New Mexico, acting by and through its duly constituted Board of Education representing a political subdivision of the State of New Mexico. *See* N.M. Stat. Ann. § 22-1-2(R)(2003); N.M. Stat. Ann. § 22-5-4 (2003) (the “**Board**”).

B. **WHEREAS**, the Gallup-McKinley County Schools (“School District”) desires to utilize technology-based applications combined with teacher/student/parent involvement, to provide full-time virtual on-line school program. Such on-line program, will serve grades K through 12 and be known as the Destinations Career Academy of New Mexico (the “**Program**”) and shall be available exclusively for the benefit of students throughout the State of New Mexico.

C. **WHEREAS**, the Program may also be referred to in abbreviated form, for example, as DCA-NM.

D. **WHEREAS**, K12 and its Affiliates were established, among other things, for the following purposes:

- promoting and encouraging new methods of effective education;
- implementing innovative and effective instructional systems in elementary and secondary education.

E. **WHEREAS**, K12 will provide the School District with a variety of educational products and services in furtherance of the Program. These educational products and services include providing K12 owned and licensed curriculum, online school and learning management systems; teacher support, training, recruitment, and hiring; Program administration services; technology services for a student account management system and other administrative and technology support services specified in this Agreement.

F. **WHEREAS**, it is the intention of both Parties to enter into a long-term relationship in which the Board governs the Program while K12 provides comprehensive educational products and services, including administrative services, and in which K12 will help assure the financial solvency of the Program in accordance with the terms of this Agreement.

NOW, THEREFORE, the Parties mutually agree as follows:

1. DEFINITIONS. For the purposes of this Agreement, capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in this Section 1 as follows:

1.1. Affiliates. An Affiliate of K12 is an entity that controls, is controlled by, or under common control with K12, where “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of an entity, whether through the ownership of securities, by contract or otherwise.

1.2. Applicable Law. Applicable Law is defined herein as the Constitution of the State, the State education laws and/or code, the federal Elementary and Secondary Education Act, the federal Individuals with Disabilities in Education Act, other applicable federal, state or local statutes, ordinances and regulations, any amendments to or recodification of the aforementioned laws, and other binding rulings applicable to public schools in the State.

1.3. Not used.

1.4. Fiscal Year. The Fiscal Year shall run July 1 through June 30.

1.5. Not used.

1.6. Program. The Program shall be the School District’s public online educational offerings, to be known as Destinations Career Academy of New Mexico at the Gallup-McKinley County Schools (“DCA-NM”) or any substantially similar Program names.

1.7. Program Revenues: Funding will be based on the revenues and income generated or appropriated for and received by or on behalf of the School District as attributable virtual students and basic and special education average of the 80-day and 120-day Membership/Student Counts. A second and final adjustment will be made with the setting of the Final SEG Unit Value by the Secretary of the Public Education Department per statute on or before January 31 of the current fiscal year and any funding adjustments included for growth units.

1.8. Shareholder. A Shareholder is a holder of greater than one percent (1%) of K12’s outstanding shares of common stock.

1.9. State. The State is New Mexico.

1.10. Student. A Student is any student enrolled and/or otherwise taking course(s) in the Program or previously enrolled, including those pupils who have withdrawn.

1.11. Student Support Staff. Student Support Staff is defined as any position, other than teachers, that provides direct services to the Program and its Students, which may include a Guidance Counselor, Academic Coach or similar positions.

1.12. Teachers. Teachers are staff providing direct instruction to the students, including master and lead teachers and lab attendants, if any.

2. RELATIONSHIP OF THE PARTIES.

2.1. Status of the Parties. K12 is not a division or any part of the Board or the School District. The School District is a political subdivision of the State of New Mexico authorized under State law, governed independently by the Board and is not a division or a part of K12. The relationship between the Parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement. K12 is an independent contractor to the Board. Nothing herein will be construed to create a

partnership or joint venture by or between the Board/School District and K12. Neither Party will be the agent of another. The Board/School District and their employees will in no case represent to third parties, and will whenever needed disclaim to such parties, any ability to bind K12 to any duty imposed by contract, other than this Agreement or as otherwise agreed in writing by K12.

3. K12 RESPONSIBILITIES, EDUCATIONAL PRODUCTS AND SERVICES.

3.1. Description of Educational Products. During the Term, K12 and Affiliates shall license to the School District solely for use in the Program, on a non-exclusive, non-assignable, non-sublicensable basis the products and offerings as described in Exhibit A, to include curriculum, access to an online school and learning management system(s), instructional tools and other products and product related services as set forth in Section I of Exhibit A (collectively the “**Educational Products**”). K12 will have sole responsibility for creating and implementing the Academic Excellence Framework (or its successor), which shall be the instructional program for the Program. Notwithstanding the forgoing, no Educational Products shall be provided for the purpose of benefiting the School District, the Program or any personnel or students for any school year beyond the expiration or termination of this Agreement.

3.2. Description of Administrative and Technology Services. During the Term, K12 and Affiliates shall provide to the School District solely for the Program “**Administrative Services**”, including Program administration services, teacher recruiting, training and administration, and “**Technology Services**” to include a student information system, hosting of an online platform, a student account management system and related technical support and other educational services as described in Exhibit A. The Administrative Services and Technology Services shall collectively be referred to as the “**Services**.” Notwithstanding the forgoing, no Services shall be provided for the purpose of benefiting the School District, the Program or any personnel or students for any school year beyond the expiration or termination of this Agreement.

3.3. Place of Performance. Performance of Services is not required to be rendered on the School District’s premises, if any, unless specifically stated in Exhibit A or for compliance with Applicable Law.

3.4. Academic and Attendance Reports. No later than the tenth day of each month, or at such other interval as the Parties may agree, K12 will provide the following K12-standard reports for students in the Program to the School District in a format to be agreed upon by the Parties:

- 3.4.1. All Student Report – All students who have ever applied to the Program (active and withdrawn) with related student demographic data;
- 3.4.2. D2L Detail Report – Information on student progress in Desire 2 Learn (“D2L”) platform courses (grades 6-12), including grade to date and number of submitted assignments;
- 3.4.3. Incremental Progress Report – Information on student progress in Online School (“OLS”) platform courses (grades K-5) broken out by week as well as in the aggregate;
- 3.4.4. Final Grade Report – Final grades assigned and approved for completed courses by student and school;
- 3.4.5. Duration Report – The login date and the duration that the student and/or the Learning Coach (“LC”) was logged into the OLS or D2L;
- 3.4.6. Aggregate Attendance Report – Total hours of attendance by subject, grand total hours of LC-logged OLS attendance by student, and total days by student; and
- 3.4.7. Any other academic and attendance data as the Parties may agree upon from time to time.

3.5. Standards of K12 Performance.

3.5.1. K12 Compliance. K12 will provide the Educational Products and Services set forth in this Agreement and any amendments hereto in accordance with Applicable Law and Board policies made known to K12 in writing and relating to the Program. Subject to Section 12, K12 shall also comply with changes in Board policies applicable to the Program within thirty (30) days of receipt of written

notice and a copy thereof; however, Program Policies (as defined in Section 4.3) shall be adopted in accordance with Section 4.3 and Board policies cannot and do not revise, amend or create additional rights or obligations to either Party of this Agreement, except as may be agreed to by both Parties in a written amendment hereto.

3.5.2. Confidentiality of Records/FERPA. The School District shall ensure that K12 has the right to access personnel, financial, and Student data related to the Program. As such, K12 will maintain the confidentiality of Program personnel, student and other records in accordance with the requirements of Applicable Law. The School District recognizes and agrees that for purposes of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; 34 CFR Part 99 (“**FERPA**”) and the State laws governing the confidentiality of student records, K12 has a legitimate educational interest for purposes of the School District disclosing a student’s educational records to K12. The School District shall define “school officials” and “legitimate educational interest” as permitted by FERPA, broadly enough to permit the provision of the Educational Products and Services hereunder. Upon access to student records and information derived from student records, K12 shall be responsible for the protection of confidential student records and shall comply with any and all requirements of the School District as to the protection of confidential student records under the FERPA and the Individuals with Disabilities Education Act (“IDEA”) (20 U.S.C. § 1400 *et seq.* 34 CFR Part 300).

3.5.3. Licensure or Other State Requirements. Except as otherwise provided in this Agreement, K12 will comply with all applicable licensure or other requirements of the State and any regulations promulgated thereunder.

3.5.4. Non-Discrimination. K12 prohibits discrimination in all its programs and activities on the basis of race, color, religion, sex, national origin, age, disability, and where applicable, marital status, familial status, and sexual orientation and on all other bases required by Applicable Law.

3.5.5. Student Discipline. K12’s employees and instructors are not school disciplinarians and will not take part in any disciplinary action involving a student of the School District. K12’s employees will not attempt to administer school discipline or punishment to any student. However, if a student is engaging in misconduct, potentially violent or criminal actions, K12 may immediately remove the student from the Program, subject to appropriate follow up actions with the Principal. If members of K12’s staff believes a violation of the law or policy has occurred by a student K12 shall contact the Principal or the Superintendent of Schools who will determine whether law enforcement action is appropriate or whether student discipline is appropriate except when an affirmative duty exists under State law to report a matter directly to law enforcement such as the duty of personnel to report suspected child abuse or neglect.

3.5.6. Academic Comparisons. If, in two consecutive back-to-back years, for any of the Program’s elementary (grades K to 5), middle (grades 6 to 8) and high (grades 9 to 12) schools, that school’s Overall Performance metric for Academic Performance, as determined and made public by the New Mexico Public Education Department (“Metric”) is below the average Metric of Similarly Situated Schools at the same grade level, then K12 shall develop a remediation plan for that school with input from the District, which may include enrollment criteria, and shall implement it no later than the start of the next school year. The Similarly Situated Schools are those subsets of public elementary, middle and high schools (five of each) in New Mexico that, as proposed by K12 and agreed upon in writing by the School District by December 31, 2020 (with any proposed changes to be proposed and agreed upon in writing by each subsequent December 31), are most similar to the Program’s elementary, middle and high schools based upon the following metrics as determined and made public by the New Mexico Public Education Department: percentage of students eligible for a free or reduced lunch, percentage of minority students, percentage of economically disadvantaged students and percentage of students with disabilities.

4. DISTRICT RESPONSIBILITIES.

4.1. Not used.

4.2. Oversight of K12 and the Program. The School District shall be responsible for monitoring K12's performance under, and compliance with, the terms of this Agreement in accordance with Applicable Law.

4.3. Adoption of Policies. The Parties acknowledge and agree that in providing the Services, it shall be the responsibility of K12 to recommend various policies for the operation of the Program ("**Program Policies**"). K12 will implement procedures consistent with such policies, but the School District retains ultimate responsibility for adopting policies, including those with respect to enrollment, and for overseeing K12's implementation of Services. K12 will cooperate with such oversight and policy implementation subject to Sections 3.4.1. K12 and the School District will work collaboratively and in a timely manner on the creation of Program policies that may include, but are not limited to, policies relating to transfer and admissions procedures, student conduct online, school calendars, procedures for resolution of parent or student complaints, and the responsible use of computer equipment and other instructional property. To the extent any of the foregoing collaborative policies are not in effect, the Parties agree that K12's standard policies and best practices applicable to the Program shall be used to avoid a lack of any policy. The School District shall promptly provide K12 written copies of all policies adopted and must promptly notify K12 in writing of any changes to such policies.

4.4. Program Related Correspondence. The School District shall provide K12 with any reports, documents and other findings that are related or may have an impact on the Program and/or K12's obligations herein. Such Program related correspondence includes, but is not limited to, Board resolutions and reports, State audit preliminary and final reports, findings and correspondence, and any reports, financial or otherwise, submitted to a State regulatory body. The School District shall not unreasonably withhold information and shall cooperate with K12 to ensure K12 has the needed data and information within the School District's control in a timely manner.

4.5. School District Compliance. The School District will perform its obligations under this Agreement and shall comply with, and govern itself in a manner consistent with the requirements of Applicable Law and expectations of Parties as set forth herein.

5. SPECIAL EDUCATION, SECTION 504 AND ENGLISH LANGUAGE LEARNERS.

5.1. Special Education. Pursuant to Applicable Law, including the Individuals with Disabilities Education Act ("IDEA", 20 U.S.C. 1400), the School District, as the Local Education Agency ("LEA"), is ultimately responsible for appropriately communicating and implementing any policies, required special education and related services to Special Education Students. K12 shall assist the School District with the provision of services for Special Education Students. K12's assistance will include, approving enrollments in accordance with related policies and Applicable Law, providing general education curriculum, recruiting teachers and providing procurement support for related service providers. All policies defining the services and support to Special Education Students must be approved by the Board.

5.2. ELL and 504. Pursuant to Applicable Law including Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.), the Equal Educational Opportunities Act (20 U.S.C. 39) and Title III of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (20 U.S.C. 28 and 70), the School District (as the LEA) is ultimately responsible for communicating and implementing any policies, required educational and related services to English Language Learners ("ELL") and Students access to education issue under Section 504 of the Rehabilitation Act of 1973 ("504"), as amended. K12 shall assist with the School District's obligations by providing translation assistance during enrollment for ELL Students (and their guardians), recruiting ELL-licensed teachers as required, providing general education curriculum and providing procurement support for services to ELL and 504 Students consistent with this Agreement. All

policies defining the services and support to ELL Students and for the 504 population of Students must be approved by the Board.

6. FINANCIAL MATTERS.

6.1. **Financial Risk Mitigation.** As an inducement for entering into this Agreement, the Parties agree that K12 is willing to assume the financial risks set forth herein, subject to all of the risk mitigation efforts set forth below, each of which are material terms of this Agreement:

6.1.1. **Exclusivity.** K12 shall be the sole provider of the Educational Products and Services for the Program to provide an online educational program for any of grades K to 12 for students unless otherwise waived in writing by an authorized officer of K12. Nothing within this provision shall be construed to preclude or limit the Board of Education in the exercise of its fiduciary obligations to the School District and to monitor the performance of this Agreement. However, the School District shall not procure goods and services from a third party that are otherwise included in the Educational Products and Services provided by K12 under this Agreement. Any changes required to the Educational Products and Services for the Program by K12 must occur consistent with this Agreement. Notwithstanding anything to the contrary in this provision, exclusivity shall not be required for any grade(s) that is no longer offered under this Agreement.

6.1.2. **Financial Risk Remedies.** In the event the School District materially breaches this Agreement or otherwise acts in a manner that will have the effect of materially increasing K12's obligations, including payment obligations, or materially decreasing its rights herein, including changing the name of the Program, or adopting adverse policies and the Agreement is not terminated, then to the extent K12 has not otherwise expressly agreed to such material change in writing, K12 reserves the right to invoke any remedies available to it, including termination as set forth in Section 12 effective immediately beginning with the Fiscal Year that such breach or action occurred in addition to other remedies available.

7. TERM OF AGREEMENT.

7.1. **Term.** This Agreement will become effective upon the date of full execution for the benefit of the Fiscal Year commencing on July 1, 2020 ("**Effective Date**") and will expire on June 30, 2026 ("**Initial Term**") unless sooner terminated under the Section 12 of this Agreement.

7.2. **Renewal.** Following the Initial Term, this Agreement will automatically extend for up to two successive additional periods of two (2) year(s) (each such period a "**Renewal Term**"), unless (a) either Party provides the other with written notice of intent not to automatically renew at least one (1) year before the expiration of the then-current Initial Term or Renewal Term (as applicable); or (b) the Agreement is sooner terminated under Section 12. The Initial Term and any Renewal Terms will be referred to collectively as the "**Term**".

8. PRICING, FEES AND PAYMENT.

8.1. **Not Used.**

8.2. **Educational Product, Administrative and Technology Fees.** In consideration of the value of the Educational Products, Administrative Services and Technology Services provided by K12, the School District will pay K12 and its Affiliates a "**Products, Administrative and Technology Services Fee**" equal to eight thousand three hundred and ninety nine dollars (\$8,399.00) for each Student enrolled in the Program in a Fiscal Year.

- 8.2.1. Unit Value Adjustment. For each school year after School Year 2020-2021, the Products, Administrative and Technology Fee shall be increased or decreased, as appropriate, as compared to the prior school year by the same percentage as the Percent Change Year to Year for the Final Unit Value, as reported by the New Mexico Public Education Department, for that school year. The adjusted fee shall be the Adjusted Products, Administrative and Technology Fee ("Adjusted Fee") for that school year. The Adjusted Fee for School Year 2020-2021 shall be the amount set forth in Section 8.2 of this Agreement.
- 8.2.2. Impact Aid. The Adjusted Fee shall be reduced by one thousand eight hundred dollars (\$1,800.00) for each Student the School District establishes that the School District will not receive and has not received Impact Aid under Title VII of the Elementary and Secondary Education Act, as may be amended or recodified from time to time.
- 8.2.3. Special Education. For each one percent (1%) of the special education enrollment of the Program the Adjusted Fee shall be increased by one hundred and twenty six dollars and eighty one cents (\$126.81) for all Students enrolled in the Program for that Fiscal Year.
- 8.2.4. Payment of Program Expenses. The Adjusted Fee as revised by the changes set forth in Sections 8.2.2 and 8.2.3 shall be known as the Final Adjusted Fee for the Fiscal Year. The Parties hereby acknowledge that out of the amounts paid to K12 pursuant to Section 8.2, K12 shall be responsible for paying all costs and expenses incurred by K12 in providing the Educational Products, Administrative Services and the Technology Services referenced in Exhibit A of this Agreement, including, but not limited to, Teacher and Student Support Staff related salaries and costs and payments to third-party vendors and contractors obtained by K12 and its Affiliates for the Program, and that the balance remaining after the payment of such expenses shall be K12's fee.
- 8.2.5. Resident Students. Notwithstanding anything in the Agreement to the contrary, Final Adjusted Fees shall not be paid to K12 for Students who are residents of the School District and were enrolled in School District public schools during the school year prior to enrolling in the Program; provided, however, such limitation shall be up to an amount equal to two percent (2%) of the total Program population. For example, if there were one thousand (1,000) students in the Program, including twenty-five (25) students who are residents of the School District and were enrolled in School District public schools during the school year prior to enrolling in the Program, only funding received by the School District for five (5) of those twenty-five (25) resident students shall be included in Program Revenue.
- 8.3. Business Judgment. The School District hereby agrees, in the exercise of its business judgment, that the economic arrangement included herein, including the fees payable to K12 hereunder are reasonable, necessary, and fair compensation for the Educational Products and Services provided for the Term.

9. PERSONNEL SUPPORTING THE PROGRAM

- 9.1. K12 Administrative Program Staff. K12 will employ and determine the employment terms for administrative personnel who may include a Director of School Operations ("DOS") or equivalent administrative staff position (which such person shall be K12's highest ranking employee assigned to the school), and such other staff, as K12 deems necessary to deliver the Educational Products and Services described in this Agreement. The responsibilities and performance of K12's staff will be consistent with Applicable Law. Such administrative personnel may be assigned to the Program on a full- or part-time basis. Except as set forth in Section 9.2, K12 will have the sole authority to select, supervise, direct, compensate and determine compensation, evaluate, transfer, promote, discipline and dismiss its staff members. The DOS (or designee) shall provide to the Principal all data necessary for submission to the School District's student information system. The Principal or that person's designee shall be responsible for such submissions.

9.2. Program Teachers and Student Support Staff. K12 shall employ and be ultimately responsible for the Teachers and Student Support Staff for the Program to deliver the Educational Products and Services hereunder, except in limited circumstances where K12 deems it reasonably necessary for the School District to employ such staff. The Teachers and Student Support Staff personnel shall be State-certified or possess the necessary credentials, qualifications, background and conduct checks to the extent required by Applicable Law. The Principal shall have the authority to use the benchmarks and requirements in the New Mexico Teacher Evaluation System (or its successor), performance management objectives and metrics each of which are created and provided by K12 and the Academic Excellence Framework (or its successor) to supervise and evaluate the teachers.

9.3. Complaints About K12 Staff. If the School District is dissatisfied or concerned about the job performance of a K12 staff member assigned to the Program, the Board or its designee shall discuss the matter first with the DOS or its equivalent. K12 shall periodically evaluate K12's employees assigned to the Program with regard to their job performance in coordination with the DOS and Principal. In the event that Principal has determined that K12's employees have job performance deficiencies or unsatisfactory job performance, the K12 employee's immediate supervisor within K12 shall meet with the Principal to discuss whether remedial action can be taken to improve the employee's job performance or whether the employee shall be replaced. In the event the School District has a concern or is not satisfied with the DOS' job performance, the Board will provide K12 official written notice pursuant to this Agreement and set forth the specific issues and requested action with supporting documentation, and K12 shall review such request and respond in a timely manner. The School District maintains the right to immediately remove from the Program any student or K12 employee who poses an immediate threat or danger to personnel or students. This ability to remove such individuals shall include but is not limited to, the School District's needs to conduct necessary investigations of complaints and/or concerns raised about the interaction between teachers and students pending final action by K12 and the School District.

9.4. Principal. The School District shall be solely responsible for the employment, supervision and dismissal of its Principal of the Program. The Principal's responsibilities will be set by the School District and shall be consistent and limited to that in Section 4.2. If K12 is dissatisfied or concerned about the job performance of the Principal assigned to the Program, K12 will inform the Superintendent (or a designee other than the Principal) with requested action and supporting documentation. The Superintendent (or a designee other than the Principal) shall review and respond in a timely manner. The Principal shall invite the DOS to all meetings and conferences, whether in-person, by telephone or virtual, with more than one K12 employee and shall send all e-mails or other electronic or written communications sent to one or more teachers to the DOS at the same time that they are sent to the teacher or teachers.

9.5. Determination of Employer Entity. The Parties anticipate that, except as otherwise required by Applicable Law, the DOS and all other administrative personnel will be provided by K12. In the event that K12 determines that it is necessary or desirable that any of the K12 staff members providing services under this Agreement become an employee of the School District, K12 shall notify the Board of such determination in writing and upon the written agreement of the Board, such K12 staff member shall become an employee of the School District; such change shall become effective on the date agreed to by the Parties.

9.6. Background Investigations on K12 Employees. As part of its Administrative Services, K12 will be responsible for arranging for and payment of criminal background checks to be conducted on its employees assigned to the Program to the extent required under Applicable Law and will maintain documentary evidence that it has done so. Upon the School District's request, K12 will provide the School District with documentary evidence of its compliance, including review of the result of said background checks, subject to any privacy restrictions or confidentiality requirements imposed by Applicable Law. The Principal shall provide the acceptable and nonacceptable criteria used by the District for evaluation of background checks. K12 will use criteria no less restrictive than the District's criteria.

10. PAYMENT OF PRODUCT AND SERVICE FEES.

10.1. **Payment of Fees.** The School District shall pay K12 monthly for all fees and costs due to K12 under Section 8 of this Agreement, with each payment due no later than thirty (30) days after funding for students in the Program is received by the School District. The School District shall provide to K12 all documentation regarding funding received by the School District for students in the Program no later than thirty (30) days after funding for students in the Program is received by the District.

10.2. **Interest.** Except solely for amounts disputed in good faith pursuant to Section 10.5, if the School District fails to pay K12 when due pursuant to Section 10.1, then in addition to any other remedies, K12 reserves the right to charge and the School District agrees to pay interest on the past due amount at the lesser of one and one-quarter percent (1¼%) per month or the maximum rate allowed by Applicable Law. All payments made hereunder will be made to K12 (or its designated Affiliate) by wire transfer to the account provided by K12 in writing, unless an alternative payment method is provided for in the K12 invoice.

10.3. **Taxes.** Except as otherwise stated herein, K12 is not responsible for any taxes or third-party charges related to the activities, or the ownership or operation of the Program within the boundaries of the School District. Without limiting the foregoing, the School District agrees to pay any sales, use, property, excise, value-added, or other similar taxes, if any, imposed by Applicable Law, except for taxes based on K12's income. For the avoidance of doubt, all fees for the Educational Products and Services set forth herein are exclusive of such taxes.

10.4. **Not Used.**

10.5. **Disputed Amounts.** The School District shall notify K12 in writing prior to a payment due date of any amount it disputes in good faith ("Dispute Notice"). The Dispute Notice shall detail the reasons for such dispute and the Board agrees to pay all undisputed amounts in accordance with Section 10.2. The Parties shall seek to resolve these disputed amounts in accordance with the dispute resolution provisions set forth in Section 22. Notwithstanding anything to the contrary in this Agreement, K12 may file suit in a court of competent jurisdiction to recover all past due amount.

10.6. **Non-Payment Remedies.** If the School District fails to pay any amount for which a timely Dispute Notice is not received, then notwithstanding anything in this Agreement to the contrary, in addition to invoking any other legal or equitable rights available to K12, upon ten (10) days written notice to the Board, K12 reserves the right to: (i) suspend the provision of any or all of its Educational Products and Services offered hereunder; (ii) cease processing enrollments for any new Program students; and/or (iii) terminate this Agreement at the end of the then-current school year or for the coming school year if such notice is provided to the Board no later than June 30. The School District shall be liable for costs incurred by K12 to collect any undisputed amounts due hereunder, including reasonable attorneys' fees.

11. OTHER SCHOOLS. The Parties acknowledge that K12 and its Affiliates will have the right to render similar services and provide similar products to other persons or entities, including, but not limited to, other public or private schools, institutions or districts within and outside of the State. K12 agrees to refrain from rendering similar services or provide similar products to any person or entity physically located within the boundaries of the School District.

12. TERMINATION. Events of termination are as follows:

12.1. **Termination for Cause.** Except as otherwise provided herein, the Parties shall use good faith efforts to resolve all disputes relating to this Agreement as set forth in Section 22; however, either Party may terminate this Agreement for cause at any time with ninety (90) days' prior written notice to the other Party. Termination for cause shall mean the breach of any material term or failure to fulfill any material condition, term, provision, representation, warranty, covenant or obligation contained in this Agreement, and a failure to cure such a

breach within forty-five (45) days after receiving written notification from the terminating Party. Upon termination of this Agreement, the non-breaching Party shall be entitled to seek any remedies for which it would be entitled at law or in equity. Additionally, in the event the School District does not cure the material breach of this Agreement as set forth in this provision K12, in its sole discretion, may continue performance so long as there are no outstanding payments due to K12 and its Affiliates in lieu of terminating this Agreement, but such continuance shall not be deemed a waiver of any of K12's rights hereunder, including termination.

12.2. Termination Based on Performance Comparisons. If all of the Program's elementary, middle and high schools have been discontinued pursuant to Section 3.4.6 of this Agreement, then this Agreement is deemed to be terminated as of the last day of the last discontinued school.

12.3. Termination for Material Reduction in Program Revenue. K12 may terminate this Agreement in the event there is a material reduction in Program Revenue below the amount for the prior Fiscal Year or such reduction will materially increase the financial risk to K12 in providing the Educational Products and Services. K12 shall notify the Board of its intent to terminate under this provision and provide the Board thirty (30) days' notice so that the Parties may work together to find alternative funding or other means to offset the reduction in Program Revenue. If the Parties are unable to find additional revenue or other means in the thirty (30) day time-frame, K12 may terminate this Agreement and such termination shall be effective: (i) immediately upon written notice by K12 to the Board, if notice or publication of such reduction is given at least ninety days (90) prior to the commencement of the school year to which such reduction is applicable; or (ii) at the end of the school year upon written notice to the Board if notice or publication of such reduction is given during the school year to which such reduction is applicable. In the event K12 elects not to terminate this Agreement in accordance with this provision, K12 may reasonably revise and determine the level of products and services to be provided in accordance with Applicable Law, considering any such funding reduction.

12.4. Termination in the Event of Certain Changes. K12 may terminate this Agreement effective immediately upon written notice to the School District in the event that the Board adopts or amends a policy or the Principal provides direction, in either case without the prior written approval of K12, and the effect of such amendment, policy or direction could reasonably be determined to require K12 to increase materially the level of services required to be provided hereunder or to increase materially the financial risk to K12 arising from its performance of its obligations hereunder, thus rendering K12's performance economically unviable as determined by K12. In the event the Board adopts such an adverse policy or the Principal provides such direction in the middle of a school year, K12 agrees to use its best efforts to complete the then current school year without waiving any rights and remedies hereunder.

12.5. Change in Applicable Law. If any change in Applicable Law enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of any Party to carry out its obligations under this Agreement, such Party, upon written notice to the other Party (which notice may be given at any time following enactment of such change in Applicable Law, whether or not such change is effective on the date of such enactment or is effective at a later date), may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith. If the Parties are unable to renegotiate and agree upon revised terms within ninety (90) days after such notice of renegotiation, then this Agreement will be terminated effective at the end of the school year in which such notice was given, unless earlier termination is necessary to protect the health, welfare, or safety of students.

13. TERMINATION EFFECTS. Effects of termination are as follows:

13.1. Outstanding Payments Due. Except as otherwise agreed by the Parties in writing, termination does not relieve the School District of any obligations for payments outstanding to K12 as of the date of termination or other obligations that continue upon termination as provided in this Agreement.

13.2. Return of Equipment. Return of K12-provided equipment, if any, is mandatory. K12 will request from students, by and through the student's parents or guardians that they return all K12 assets including, but not limited to, computers, related equipment and non-consumable materials that may be provided by or on behalf of K12 upon the expiration or termination of this Agreement, or, if earlier, upon their discontinuation of enrollment in the Program, in accordance with the policies governing the use and reclamation of such materials. K12 shall assume the sole risk and responsibility for any and all lost or damaged computers, monitors, software and other hardware provided and used during the Term of this Agreement.

13.3. Fees Owed. In the event this Agreement terminates as provided for herein, or it expires pursuant to its terms, and unless otherwise agreed by the Parties in writing, the School District shall owe for all products provided and services rendered in accordance with this Agreement for the period up to and including then current Fiscal Year of the termination or expiration and the School District shall pay off the outstanding fees due to K12. All such fees will be determined up to and including the year in which this Agreement terminates or expires.

14. INTELLECTUAL PROPERTY RIGHTS.

14.1. Proprietary Materials. K12 (and its Affiliates and respective licensors) own all rights, including but not limited to, copyright title, and interest in and to any educational materials, curriculum, learning management systems, instructional content, trade secrets, know-how, artwork, graphics, software, marketing materials and any documents or derivative works related thereto, made available by K12 or its Affiliates to the School District or for the Program (collectively, "K12 Proprietary Materials").

14.2. Rights in K12 Proprietary Marks. K12 and its Affiliates own all rights, title and interest, including any goodwill, in and to their respective trademarks, service marks, logos, trade dress, Program names, trade names and domain names, including but not limited to the Program names and logos and those trademarks and names identified in Exhibit B hereto (collectively, "K12 Proprietary Marks"). Any rights or goodwill the School District may have established in the foregoing will be assigned to K12.

14.3. Limited License of Intellectual Property. K12 hereby grants the School District a royalty-free, non-exclusive, non-transferable license to use the K12 Proprietary Materials and the K12 Proprietary Marks during the Term in connection with the Program as contemplated in this Agreement. If School District employees create any original works for use in connection with, or for incorporation into any K12 Proprietary Materials, K12 is hereby granted a perpetual, royalty-free, worldwide right and license to exploit, use distribute, modify and create derivative works from such works in any medium and for any purpose.

14.4. Limitations On Use of Intellectual Property.

14.4.1 The District shall not modify, adapt, alter or translate the K12 Proprietary Marks. The School District shall only use the K12 Proprietary Marks in the form set forth in Exhibit B, or as otherwise required or approved of in writing by K12.

14.4.2 The School District shall not disassemble, reverse engineer, modify, alter, or create derivative works from the K12 Proprietary Materials without the prior written consent of K12. In addition, the School District shall frame or embed, or cause to be framed or embedded, any website owned by K12.

14.4.3 In connection with use of the K12 Proprietary Marks and the K12 Proprietary Materials by the Board/School District and the Program staff, the Board/School District shall include any trademark notice, copyright notice, or other legal notice required by K12 at its sole discretion and the Board/District shall abide by the trademark quality control provisions herein and set forth in Exhibit B.

14.4.4 The School District shall not sublicense any rights under this Agreement without the advance written approval of K12, which may be withheld in K12's sole discretion.

14.4.5 The District shall ensure its Program staff are aware of and abide by the license rights and restrictions granted herein.

14.5. Trademark Quality Control; Notice. At all times during the Term, the School District shall ensure that educational services rendered by the School District for the Program under the K12 Proprietary Marks maintain a level of quality that meets or exceeds generally accepted standards for educational service organizations and K12's additional quality standards established over time as K12 deems applicable. K12 shall have, at reasonable times and on reasonable notice, the right to inspect and/or monitor any educational services rendered by or for the School District under the K12 Proprietary Marks to ensure compliance with this Section. The School District shall give prompt notice to K12 of any written and/or formal complaint by any student, governmental body, regulatory agency, consumer organization or any other third party concerning the quality or safety of the Board's services offered under the K12 Proprietary Marks.

14.6. Ownership of Intellectual Property. The Board agrees that: (a) no right, title or interest in the K12 Proprietary Materials or K12 Proprietary Marks, or any other intellectual property of K12 (including K12 patents) conveys to the Board, except for the right to use such materials and marks in accordance with the terms herein; (b) the K12 Proprietary Materials and the K12 Proprietary Marks are the sole property of K12; and (c) any use by the Board, District or Program of the K12 Proprietary Marks, and all goodwill derived therefrom, shall inure to the benefit of K12. The District agrees to notify K12 promptly in writing of any known or suspected infringement of the K12 Proprietary Materials or the K12 Proprietary Marks, and to cooperate, at K12's request and expense, in any action to establish, protect, or preserve K12's exclusive rights in the K12 Proprietary Materials and K12 Proprietary Marks.

14.7. Effect of Termination on Licenses. In the event of expiration or termination of this Agreement, the School District will promptly discontinue use of the K12 Proprietary Materials and the K12 Proprietary Marks, and will, within thirty (30) days after termination, destroy all materials using, embodying, displaying, or otherwise containing the K12 Proprietary Materials or the K12 Proprietary Marks, including those in the possession of the School District, the Program employees, Students, and sublicensees of the School District.

14.8. Publicity/Press Release. K12 may refer to and identify the Program in a listing of new, representative or continuing or prior customers in press releases, on its website, or in other marketing materials or dissemination of information. The Parties may agree to cooperate in joint marketing activities or in issuing a joint press release at the request of either of them, subject to prior written consent and approval of the form and substance of both the Program and K12.

14.9. License Audit. If necessary, K12 may audit the use of the Educational Products and the School District agrees to reasonably cooperate with such audit. The School District agrees to pay within thirty (30) days of written notification, any fees applicable to the School District's or its Program staff's use of the Educational Products in excess of the license rights granted herein and/or K12 may revoke the related technical support and unauthorized license(s).

15. LIMITS ON LIABILITY AND DAMAGES.

15.1. LIMIT OF LIABILITY. K12'S MAXIMUM LIABILITY AND OBLIGATION TO THE SCHOOL DISTRICT AND THE SCHOOL DISTRICT'S EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE RECOVERY OF ACTUAL DIRECT DAMAGES UP TO THE AMOUNT OF FEES PAID UNDER THIS AGREEMENT IN THE PRIOR SIX (6) MONTHS.

15.2. CONSEQUENTIAL DAMAGES. EXCEPT IN CONNECTION WITH ITS INDEMNITY OBLIGATIONS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOST SAVINGS, LOST PROFITS, LOST SALES, BUSINESS INTERRUPTIONS, DELAY DAMAGES, DAMAGES FOR THIRD PARTY CLAIMS, LOST OR DESTROYED DATA, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER OCCASIONAL SHORT-TERM INTERRUPTIONS OF SERVICE OR PRODUCTS, WHICH ARE NOT UNREASONABLE UNDER COMPARABLE INDUSTRY STANDARDS OR INTERRUPTIONS OF SERVICE OR PRODUCTS RESULTING FROM EVENTS OR CIRCUMSTANCES BEYOND K12'S REASONABLE CONTROL SHALL BE CAUSE FOR ANY LIABILITY OR CLAIM AGAINST K12 HEREUNDER, NOR SHALL ANY SUCH OCCASION RENDER K12 IN BREACH OF THIS AGREEMENT.

16. INDEMNITY. The Party charged with indemnifying and/or defending under this provision (the "**Indemnifying Party**") shall conduct the defense in any such third party action arising as described herein and the Party claiming the benefits of this Section 16 (the "**Indemnified Party**") promises to cooperate with such defense, provided the Indemnifying Party reasonably consults with the Indemnified Party on any settlement (subject to the consent requirement in the last sentence of this paragraph). Notwithstanding the foregoing, the Indemnified Party may, at its own expense, assist in such defense if it so chooses, provided that the Indemnifying Party shall be entitled to control such defense and all negotiations relative to the settlement of any such claim. Any settlement that would admit any liability on the part of the Indemnified Party shall require such Indemnified Party's prior written consent.

16.1. Indemnification of the School District. K12 will indemnify, defend, and save and hold the School District and all of its employees, officers, directors, trustees, subcontractors, and agents, their respective successors and permitted assigns, harmless against any and all claims, demands, suits, or other forms of liability including without limitation costs and reasonable attorneys' fees (each a "**Claim**") that may arise out of, or by reason of, any (a) breach of any expressed representation or warranty, covenant or agreement made or to be performed by K12 pursuant to this Agreement, (b) noncompliance by K12 with any Applicable Law in connection with the School District's operations, but excluding any Claims that arise from conduct undertaken in accordance with the Board's or School District's instructions, procedures or written policies, except where such instructions arise from and are in accordance with specific advice or explicit recommendations formally provided by K12, and (c) act or omission of K12 or any of its employees, officers, directors, trustees, subcontractors or agents in connection with the School District's operations that results in injury, death, or loss to person or property, except to the extent any Claims arise out of actions or omissions of the School District or the Board. K12 and its Affiliates shall not be liable for any Claims related to the enrollment, placement and provision of services to any Students with special education, ELL or 504 needs, except to the extent caused by K12 and its Affiliates.

16.2 Indemnification of K12. To the extent permitted by Applicable Law, the School District will indemnify, defend, and save and hold K12 and its Affiliates and all of their respective employees, officers, directors, trustees, subcontractors, and agents, their respective successors and permitted assigns, harmless against any and all Claims that may arise out of, or by reason of, any (a) breach of any expressed representation or warranty, covenant or agreement made or to be performed by the School District pursuant to this Agreement, (b) noncompliance by or on behalf of the School District or Board with any Applicable Law in connection with School District's operations, (c) act or omission of the School District or Board or any of its employees, officers, directors, trustees, subcontractors or agents in connection with the School District's operations that results in injury, death, or loss to person or property except to the extent any Claims arise out of actions or omissions of K12, and (d) for any Claims that are related to the School District's or Board's action or inaction with respect to the enrollment, placement and provision of services to any Students with special education, ELL or 504 needs, except to the extent caused by K12 or its Affiliates.

16.3 Liability. Notwithstanding anything to the contrary in this Agreement, as between the parties, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from the negligence of its employees. The liability of the Gallup-McKinley County School District No. 1 shall be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1 et seq. NMS 1978, as amended. This Agreement contains the understanding between the School District and K12 only and shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise against the named parties, their officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, consultants, or advisors. Nothing in this Agreement limits or directs the application of any applicable or relevant law as applied by any court or agency of competent jurisdiction and nothing in this Agreement constitutes a waiver of sovereignty to the extent it would or would not apply in any particular matter.

16.4. Indemnification Procedures.

16.4.1. Notice Requirement. Each Indemnified Party must give written notice to the other of the existence of a Claim promptly after such Indemnified Party first receives notice of the existence of the potential Claim, provided that such Indemnified Party will not be foreclosed from seeking indemnification hereunder by any failure to provide such prompt notice except and only to the extent the Indemnified Party actually incurs an incremental expense or otherwise has been materially prejudiced as a result of such delay.

16.4.2. Defense and Settlement of Claims. Each Indemnified Party seeking indemnification hereunder will permit the Indemnifying Party (at the expense of the Indemnifying Party) to assume the defense of such Claim, provided, that (i) counsel for the Indemnifying Party who will conduct the defense of such Claim must be reasonably satisfactory to such Indemnified Party and (ii) such Indemnified Party may participate in such defense at such Indemnified Party's expense. Except with the prior written consent of the Indemnified Party seeking indemnification hereunder, the Indemnifying Party, in the defense of any Claim, will not consent to entry of any judgment or enter into any settlement. In the event that any Indemnified Party seeking indemnification hereunder has been advised by counsel for the Indemnifying Party that such Indemnified Party may have available to it one or more defenses or counterclaims that are different from, or in addition to, one or more of those that may be available to the Indemnifying Party in respect of such Claim and, in such counsel's reasonable opinion, such counsel could not assert such defenses or counterclaims without creating a conflict of interest, such Indemnified Party will have the right to take over and assume control over the defense of such claim at the sole cost of the Indemnifying Party, provided that if such Indemnified Party does so take over and assume control, such Indemnified Party will not settle such claim without the written consent of the Indemnifying Party. In the event that the Indemnifying Party does not accept the defense of any matter as above provided, the Indemnified Party seeking indemnification hereunder will have the right to defend against such Claim, provided that such Indemnified Party will not settle such Claim without the written consent of the Indemnifying Party. In any event, any Indemnified Party seeking indemnification hereunder and the Indemnifying Party will cooperate in the defense of any claim subject to this Section entitled "Indemnification".

17. ASSIGNMENT. Except as otherwise provided in this Agreement, neither Party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other Party provided, however, K12 may assign all of its rights and obligations under this Agreement to any Affiliate, acquiror, or successor in interest to the extent not otherwise expressly prohibited by Applicable Law. K12 may delegate the performance of its duties hereunder to any person, contractor or entity but K12 shall be responsible for the performance, in accordance with the terms of this Agreement, of any services performed by its delegates.

18. INSURANCE.

18.1. Liability Coverage. The School District shall provide and maintain, at its own expense, during the Term of this Agreement a program of insurance or self-insurance covering its activities and operations hereunder that with respect to School District's operations that complies with the coverage requirements of both of the New Mexico Tort Claims Act, N.M. Stat. Ann. § 41-4-1 et seq. (1978) and the Public School Insurance Authority Act, N.M. Stat. Ann. § 22-29-1 et seq. K12 shall initiate and maintain during the Term of this Agreement, at its own expense, general liability insurance (including contractual liability insurance to cover the respective indemnification obligations herein) for not less than \$5,000,000 (combined single limit for bodily injury and property damage per occurrence and in the aggregate). K12 will initiate and maintain during the Term and for two (2) years thereafter, employment practices liability insurance and errors and omissions insurance, each in limits of no less than \$1,000,000 per claim/aggregate. Each Party's general liability and contractual liability insurance will be written to cover claims incurred, discovered, manifested, or made during or after the Term.

18.2. Evidence of Insurance. Each Party will furnish a certificate of insurance evidencing such coverage to the other Party within seven (7) days of written request by a Party. The Parties will endeavor to provide thirty (30) days' advance written notice to the other Party of any cancellation or material adverse change, including impairment of the limit of liability by twenty-five percent (25%) or more, to such insurance.

18.3. Insurance Coverage No Limitation on K12's Rights. Each Party will furnish a certificate of insurance evidencing such coverage to the other Party within seven (7) days of written request by a Party. The Parties will endeavor to provide thirty (30) days' advance written notice to the other Party of any cancellation or material adverse change, including impairment of the limit of liability by twenty-five percent (25%) or more, to such insurance.

18.4. Workers' Compensation Insurance. Both Parties will initiate and maintain workers' compensation insurance for its respective employees working at or for the Program, as required by Applicable Law.

18.5. Cooperation. All Parties will comply with any information or reporting requirements required by the other Party's insurer(s), to the extent reasonably practicable.

19. REPRESENTATIONS AND WARRANTIES.

19.1. Representations and Warranties of K12. K12 hereby represents and warrants to the School District:

19.1.1. Organization and Good Standing. K12 is a company duly organized, validly existing, and in good standing under the laws of the State of Delaware and is a wholly owned subsidiary of K12 Inc.

19.1.2. Power and Authority; Authorization; Binding and Enforceable Agreement. K12 has full limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by K12 and constitutes the valid and legally binding obligation of K12, enforceable against K12 in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

19.1.3. Professional Services. K12 warrants that the Services will be performed in a professional and workmanlike manner in accordance with commercially reasonable industry standards, and deliverables, if any, will materially comply with the agreed upon functional specification set forth in the applicable Exhibit A, if used in a manner consistent with the conditions for which it was designed.

THE FOREGOING WARRANTIES MADE BY K12 IN THIS SECTION (AND ITS SUBSECTIONS) ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND K12 AND ITS AFFILIATES MAKE NO GUARANTEES AS TO THE RESULTS OR ACHIEVEMENTS OF THE STUDENTS. WITHOUT LIMITING THE FOREGOING, K12 MAKES NO GUARANTEES AND SHALL NOT BE LIABLE FOR NON-AVAILABILITY OF THE K12 WEBSITE, END-USER CONNECTION SPEED OR CONNECTIVITY PROBLEMS.

19.1.4. Non-Conformities. The foregoing warranties shall not apply to defects or non-conformities: (a) resulting from software, hardware or interfacing not supplied by K12, its Affiliates or authorized contractors; or (b) resulting from inadequate or improper maintenance, modification, storage or usage of the K12-provided materials by the District, its employees or Students. In addition, the foregoing warranty shall not apply to requirements not expressly included in this Agreement.

19.2. Representations and Warranties of the District. The School District hereby represents and warrants to K12:

19.2.1. Organization and Good Standing. The School District is a public school entity, duly organized, validly existing, and in good standing under the laws of the State of New Mexico.

19.2.2. Power and Authority; Authorization; Binding and Enforceable Agreement. The School District has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized and executed by the School District and the Board and constitutes the valid and legally binding obligation of the School District, enforceable against it in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

19.2.3. Authority Under Applicable Law. The Board has the authority under Applicable Law to: (i) contract with a company to obtain the Services and all other products, programs and services under this Agreement; (ii) to execute, deliver, and perform this Agreement; and (iii) to incur the obligations provided for under this Agreement.

19.2.4. Non-Contravention. The execution, delivery and performance of this Agreement by the School District will not constitute, under any other agreement, note, lease, or other instrument to which the School District is a party or by which it or any of its assets is bound, any violation, breach or event of default by the District or any other party thereto.

19.2.5. Provision of Authority to K12. The School District has provided and will provide K12 with all authority and power necessary and proper for K12 to undertake its responsibilities, duties, and obligations provided for in this Agreement.

19.2.6. Program Authorization. The Program has been duly authorized by the Board in accordance with Applicable Law. The School District has delivered to K12 a true and complete copy of the Board Resolution approving the Program. The School District will use best efforts to renew any approvals required for the Program during the Term. The School District shall ensure that K12's authorized designee (as delegated by the EVP of School Services) is involved in any renewal or modifications of any third-party agreements, including collective bargaining agreements, that may impact this Agreement and that K12 is provided with copies of all such final documents to the extent not precluded by Applicable Law.

19.2.7. Public School Insurance Authority. The School District is, and at all times during the Term of the Agreement, shall remain a participant in the Public School Insurance Authority for all coverages and reimbursements offered thereby.

20. OFFICIAL NOTICES. All notices and other communications required by the terms of this Agreement will be in writing and sent to the Parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mail, postage prepaid, return receipt requested, (ii) reputable overnight carrier, postage prepaid, or (iii) personal delivery (with written receipt confirming such delivery). Notice will be deemed to have been given (i) three business days after mailing as described in clauses (i) or (ii) of the foregoing sentence, or (ii) on the date of personal delivery. Electronic mail does not constitute notice under this Agreement. The addresses of the Parties are:

For K12:

K12 Virtual Schools LLC
ATTN: President of Academics, Policy and Schools
2300 Corporate Park Drive, Suite 200
Herndon, Virginia 20171
Phone: (703) 483-7000

With Copy To:

K12 Inc.
ATTN: General Counsel
2300 Corporate Park Drive, Suite 200
Herndon, Virginia 20171
Phone: (703) 483-7000

For School District:

Mike Hyatt
Superintendent of Schools
Gallup-McKinley County Schools
640 Boardman Drive
Gallup, New Mexico 87301
Phone: (505) 721-1000
Fax: (505) 721-1199
mhyatt@gmcs.org

With Copy To:

Andrew M. Sanchez
HIMES, PETRARCA AND FESTER, CHTD
5051 Journal Center Blvd. NE, Suite 320
Albuquerque, New Mexico 87109
(505) 259-2069
Fax: (312) 565-0000
asanchez@edlawyer.com

21. NON-SOLICITATION/NON-HIRING.

21.1. Non-Solicitation. Each Party agrees that during the Term of this Agreement and for a period ending twelve (12) months after the expiration or termination of this Agreement for any reason, unless mutually agreed by the Parties in writing, one Party will not directly solicit, recruit for employment, offer employment to, offer subcontracting opportunities to, or otherwise employ or use the services of any employees of the other Party or their related companies if that employee or former employee had been assigned to or worked under this Agreement.

21.2. Unpermitted Solicitation/Hiring Remedies. In the event of such unpermitted use or engagement by a Party or its related company of such consultant or employee whether directly or indirectly, in contravention of the clause immediately above, the other Party, at its option, may seek receipt of a sum equivalent to one hundred percent (100%) of that employee's base starting salary with the new employer, or seek any legal or equitable relief against such actions including, but not be limited to, immediate injunctive relief in any court of competent jurisdiction.

21.3. Solicitation Exceptions. For the avoidance of doubt, newspaper, periodical or Internet-based listings of employment opportunities by a Party shall not be considered direct or indirect solicitation of an employee of the other Party; however, such Party shall continue to be precluded from engaging or otherwise using a Party's employee, former employee or consultant as provided for in Section 21.2.

22. DISPUTE RESOLUTION, VENUE AND GOVERNING LAW.

22.1. Dispute Resolution Procedure. The Parties agree that they will, within a period not to exceed ten (10) days, attempt in good faith to settle all disputes arising in connection with this Agreement amicably in the ordinary course of business escalating up to the Superintendent of the School District and the President of Academics, Policy and Schools (or their designee) for K12. If a dispute is not resolved in the ordinary course of business, the aggrieved Party may proceed to arbitration and/or invoke other remedies in accordance with this Agreement.

22.2. Arbitration. Subject to Section 22.1, if an aggrieved Party elects to arbitrate an unresolved dispute pursuant to the Section immediately above, the Parties hereby agree to proceed to mandatory binding arbitration in Bernalillo County, New Mexico, pursuant to the then existing rules of the American Arbitration Association. Except as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Judgment upon the award rendered shall be final and binding and may be enforced by any state or federal court with competent jurisdiction over the arbitrated matter. Each Party will bear its own costs and expenses associated with the dispute resolution procedures set forth in this Section except that the Parties will share equally any fees payable to a professional arbitrator.

22.3. Injunctive Relief. Notwithstanding the foregoing dispute resolution procedures, the School District acknowledges that in the event it breaches any of K12's intellectual property rights, K12 may suffer irreparable harm in which the full extent of damages may be impossible to ascertain and monetary damages may not be an adequate remedy. In its sole discretion, K12 may seek immediate judicial relief as available in law or equity. K12 will be entitled to enforce its intellectual property rights under this Agreement by an injunction or other equitable relief without the necessity of posting bond or security, in addition to its right to seek monetary damages or any other remedy. The decision by K12 not to seek judicial relief during the agreed dispute resolution procedure, will not create any inference regarding the presence or absence of irreparable harm.

22.4. Governing Law. The laws of the State of New Mexico without regard to its conflict of laws provisions will govern this Agreement, its construction, and the determination of any rights, duties, and remedies of the Parties arising out of or relating to this Agreement. Nothing in this Agreement shall be interpreted as constituting consent by the School District to be subject to the jurisdiction of the Navajo Nation or any of its agencies related to its operation; employment of administrators, teachers or staff; the education and safeguarding of students: supervision or disciplining of students; or any other governmental duty or function of the School District as a New Mexico public school district, and the School District specifically denies any waiver of jurisdiction to the Navajo Nation by the execution of this Agreement or its actions in furtherance of this Agreement.

23. FORCE MAJEURE. Notwithstanding any other provisions of this Agreement, no Party will be liable for any delay in performance or inability to perform (except for payments due hereunder) due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike, Internet outage, pandemic, epidemic or other acts beyond a Party's reasonable control and unrelated to its fault or negligence.

24. COORDINATION, EXERCISE OF APPROVAL OR CONSENT RIGHTS.

24.1. Coordination; Exercise of Approval or Consent Rights:

24.1.1. Coordination and Consultation. The Parties will coordinate the performance of their respective activities hereunder and will establish such procedures as they shall mutually agree to be effective for achieving the purposes of this Agreement and allowing each of them to perform its obligations and exercise its rights under this Agreement. Without limiting the generality of the foregoing, K12's legal counsel and the School District's legal counsel will consult from time to time with respect to the requirements of Applicable Law and the School District's policies as they relate to the Program's operations.

24.1.2. Approval or Consent Rights. In performing services and its other obligations under this Agreement, or in exercising its rights under this Agreement, including granting or withholding any consents or approvals or making any requests of the other Party, each Party must act reasonably (including as to the timing of its actions) except to the extent that this Agreement provides that it may act as it determines "in its sole judgment" or "its sole discretion," or words to that effect, in the applicable provision. Whenever it is provided in this Agreement that the Parties will or may agree as to a certain matter, each Party will have the right to agree or disagree in its sole discretion following good faith discussions.

25. MISCELLANEOUS.

25.1. Entire Agreement. This Agreement including its attachments hereto constitutes the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all previous and contemporaneous oral and written negotiations, commitments, agreements, warranties, representations and understandings. This Agreement will not be altered, amended, modified, or supplemented except in a written document executed by the Parties.

25.2. Counterparts, Facsimile or PDF Transmissions. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument. Each Party may rely on facsimile or PDF signature pages as if such facsimile or PDF pages were originals.

25.3. Amendment. This Agreement will not be altered, amended, modified, or supplemented except in a written document executed by the Parties.

25.4. Waiver. No waiver of any provision of this Agreement will be effective unless in writing, nor will such waiver constitute a waiver of any other provision of this Agreement, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

25.5. Interpretation. The Parties hereto acknowledge and agree that the terms and provisions of this Agreement, will be construed fairly as to all Parties hereto and not in favor of or against a Party, regardless of which Party was generally responsible for the preparation of this Agreement.

25.6. Severability. In the event any term, provision or restriction is held to be illegal, invalid or unenforceable in any respect, such finding shall in no way affect the legality, validity or enforceability of all other provisions of this Agreement. To the extent that any of the services to be provided by K12 are found to be overbroad or an invalid delegation of authority by the Board, such services will be construed to be limited to the extent necessary to make the services valid and binding.

25.7. Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

25.8. No Third-Party Rights. This Agreement is made for the sole benefit of the District and K12 and their respective successors and permitted assigns. Except as set forth in Sections 14 and 16 and except for each Affiliate of K12, which shall be a third party beneficiary of this Agreement, nothing in this Agreement will create or be deemed to create a relationship between the Parties to this Agreement, or any of them, and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

25.9. Survival of Termination. All representations, warranties, and indemnities expressly made in this Agreement will survive termination of this Agreement.

25.10. Headings and Captions. The headings and captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement.

IN WITNESS WHEREOF the Parties have entered into this Agreement as of the date set forth below.

For and on behalf of
GALLUP-MCKINLEY SCHOOL DISTRICT

For and on behalf of
K12 VIRTUAL SCHOOLS LLC

Signed: _____

Signed: _____

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

EXHIBIT A

Curriculum and Services

I. Educational Products and Product-Related Services. During the Term, K12 and its Affiliates will provide or cause to be provided to the District for the Program and its Students and its personnel the Educational Products and product-related services. The Educational Products to be provided in accordance with the terms of the Agreement, as K12 determines in its reasonable discretion are as follows:

A. Online Program. For each school year during the Term, K12 will provide a license for and access to proprietary and licensed: (i) curriculum (in English) and a learning management system for grades K through 8 for those core subject areas required by the State (Language Arts, Math, Science, History) as well as other courses offered or required for these grades which may include Art, Music and foreign language; (ii) curriculum (in English) and a learning management system for grades 9 through 12, in each case in Language Arts, Math, Science and History in addition to electives per the K12 course catalogue; and (iii) third party curricula K12 generally offers similar virtual schools, in each case for such courses required by Applicable Law.

B. Instructional Tools and Materials. Instructional tools and supplies, including without limitation textbooks and multi-media teaching tools. K12 shall identify which materials are durable and must be reclaimed and such materials must be returned as set forth in Section 13.2. K12 will provide instructions and pre-paid shipping materials and labels to facilitate the return of these materials.

C. Instructional Support. K12 will make available the necessary instructional support as mutually agreed upon as the Program may require for the Educational Products and related offerings. Such support will require that K12 pay all costs and fees (if possible, through direct billing to K12) for available Internet service for any student enrolled in the Program who meets the federal requirements for a free or reduced lunch or who meet other criteria as agreed upon between the District and K12, with such criteria intended to include families that cannot afford Internet access with special attention paid to those who live in rural areas of the state without easy access to the Internet. families that cannot afford Internet access. Paid Internet service is not required to be provided to any student not then-enrolled in the Program or during periods (such as summers) in which the student is not taking at least one class in the Program.

D. Computers. K12 may provide or cause to be provided computers, monitors, software and other hardware, as K12 determines in its discretion, to be necessary to deliver the curriculum and as agreed to in writing by K12. In the event a student is having technical trouble with a K12-provided device and notifies K12 Tech Support, K12 shall triage and troubleshoot the issue remotely. If remote triage and troubleshooting does not resolve the problem and the problem is due to the K12-provided device, K12 shall replace the device. Upon notification to K12 Tech Support, no student shall be left without access to the Program and curriculum for more than three (3) school days. K12 shall assume the sole risk and responsibility for any and all lost or damaged computers, monitors, software and other hardware provided and used during the Term of this Agreement. K12 shall maintain an continuous and accurate inventory of all computers, monitors, software and other hardware provided and used in the Program. All such equipment shall be promptly returned to K12 upon a Student's withdrawal or upon expiration or termination of this Agreement as set forth in Section 13.2. K12 will provide instructions and pre-paid shipping materials and labels to facilitate the return of these materials.

E. Testing Support. During the Term, as agreed upon by the Parties, K12 may provide, or cause to be provided to the Program included as part of the Final Adjusted Fee, equipment, logistics and technical support and related services to assist with State required online testing of Students (“**State Testing**”) as reasonably necessary. State Testing may include:

1. Site Surveys: K12 will physically validate facilities for testing sites and will notify the District if proposed facilities are found unsuitable. In all rooms where assessments will be administered mobile lab technology will be simulated and tested to include ISP signal quality measurements; optimal placement of network devices will be documented and primary and secondary networks will be identified and deployed as needed.
2. Technical Point of Contact: K12 will provide a technical point of contact to support the Program with the State Testing.
3. Onsite Support: Onsite support including set up and tear down of equipment provided as reasonably required by technicians (with national criminal records background check), however, Program teachers must be present when onsite tech is in proximity of Students.
4. Troubleshooting. Site monitoring and PC troubleshooting to be provided onsite and/or remote as reasonably required.

II. Administrative Services. During the Term, K12 and its Affiliates will solely provide or cause to be provided to the Program the Administrative Services, including the Academic Excellence Framework (or successor), which shall serve as the instructional program for the Program. Notwithstanding the forgoing, no Services shall be provided for the purpose of benefiting the District, the Program or any personnel or students for any school year beyond the Term. The Administrative Services to be provided in accordance with the Agreement, as K12 determines in its reasonable discretion are as follows.

A. Educational School Consulting. Propose and implement educational goals, methods of pupil assessment, Program policies, Program calendar, school day schedule, and age and grade range of pupils to be enrolled in the Program. K12’s recommendations for the Program will be consistent with the Agreement and Applicable Law.

B. Contracted Personnel and Support Services. If any Program employees are District employees, supervision of all personnel providing Educational Products and Services. Provide support services to include administration of Program employees including recruiting assistance and hiring recommendations; provided, however the District’s staff shall be responsible for performing all reference, certification and background checks and other related services on its personnel and for performing payroll functions or securing of payroll services; negotiation, securing and administration of health, retirement and other benefits all of which shall be the District’s or its PEO’s responsibility. K12 will work with the District’s staff and its applicable PEO to recommend human resources policies, bonus plans, and strategic plans for staffing, development, and growth. K12 will also provide teacher performance evaluation models to District for its employees and recommend and, if approved, carry out effective ways to measure teacher performance in a virtual setting.

C. Pupil Recruitment-Related Services:

1. Pupil Recruitment. Recruitment of students in K12’s and its Affiliates discretion, including creation, design and preparation of recruitment materials and advertisements; assist with information sessions and other events via mail, e-mail, print, radio, television, and outdoor advertising. Other recruitment activities include designing Program recruitment materials, letterhead, business cards, and logos to create Program identity and developing, designing, and maintaining the Program website. Recruiting campaigns

undertaken may vary in nature, but shall be designed to inform potential students about the Program and/or K12 and its Affiliate's programs (including K12 partner schools and programs) in the local area. Information that K12 obtains with respect to leads generated including, but not limited to, statistics, trends and contact information shall be owned by K12 (and its Affiliates).

2. Admissions. Implementation of the Program's admissions policies in accordance with this Agreement, including administering of the application and the Student enrollment process. Communicating with potential students and their families and conducting a random lottery if required.

3. Family Services. Plan and arrange Program orientation sessions. Assist with the design and implementation of parent orientation sessions. Field and respond to incoming calls, letters, faxes, and e-mails received by K12 about the Program, its curriculum, the application/enrollment process, instructional materials, etc. Conduct exit interviews with select Students and their parents who withdraw in order to learn more about how to improve the program for Students.

4. Program Feedback. Obtain feedback on how to improve the Program and curriculum, as appropriate. Create methods for Students, their parents, and teachers to submit comments and suggestions; implement improvements where K12 deems them to be valuable.

5. Student Clubs and Contests. Access to virtual social clubs for Students. Clubs are formed based on Student feedback and interests. K12 also provides access to participation opportunities in nationwide contests which may focus on such areas as art, poetry and craft contests. Access to both Student clubs and contests is voluntary and is open to all Program Students.

6. High School Services: As requested and as available, K12 may offer counseling tools for high school Students.

D. Special Education Students: K12 may assist the School with the provision of services for Special Education Students. K12's assistance as provided may include, approving enrollments in accordance with related policies and Applicable Law, providing general education curriculum, recruiting teachers and providing procurement support for related service providers. Where a School-based K12 employee is the representative attending meetings related to Special Education Students, including IEP meetings, at a minimum K12 may complete an annual IDEA audit. All policies defining the services and support to Special Education Students must be approved by the School's Board.

E. ELL and 504 Students: K12 may assist with its obligations by providing translation assistance during enrollment for ELL Students (and their guardians), recruiting ELL-licensed teachers, providing general education curriculum and providing procurement support for services to ELL and 504 Students consistent with this Agreement. K12 may conduct an annual review of the School's 504 and ELL services. All policies defining the services and support to ELL Students and for the 504 population of Students must be approved by the School's Board.

F. Facility Management. As may be applicable, help identify location of the District's initial or supplemental office Facility(ies) for the Program. Together with District's attorney and designees, assist with negotiating and approving leases, leasehold improvements and lease amendments in accordance with provided leases and related documents require District approval.

G. Business Administration. Administration of business aspects and day-to-day administration of Program operations to include the following:

1. Consultation, and services as liaison for the District, and other governmental offices and agencies.
2. Consultation and recommendations regarding special programs, processes, support services and reimbursements.
3. Consistent with other provisions of the Agreement, provide Program administrative staff as appropriate.
4. Work with District's counsel, if any, on legal matters affecting the Program, provided, however, K12 shall not provide legal advice and any such collaboration shall not be deemed as K12 providing legal advice.
5. Preparation of forms, operations manuals or guides, and policies and procedures as necessary or required for the District's review and approval.
6. Consultation with respect to, and monitoring and oversight of, State reporting systems.
7. Assist District in identifying and applying for grants and other funding opportunities.
8. Arrange contracts with school districts, education services centers, and professional service providers for special education and testing on Program's behalf.
9. Establish and implement policies and procedures to maintain proper internal controls for K12.
10. Provision of operational regulatory compliance services to assist Programs in understanding and complying with applicable regulatory and legal requirements as well as preparing for and responding to audits.
11. Obtaining forms, as required, from Students' district of residency to participate in the Program.

H. Reporting. Subject to any confidentiality obligations imposed on K12 by third parties, provide to the such other information required by the Board within a reasonable time following a written request thereof, and in all cases consistent with Applicable Law.

I. Management Assistance. Assistance with management to include assisting with and helping coordinate third-party audit(s) of the Program.

J. Maintenance of Student Records

1. K12 will maintain and keep the educational records of the Program at the Facility or elsewhere, unless prohibited by Applicable Law. The District recognizes and agrees that for purposes of the Family Educational Rights and Privacy Act and the State open records act, K12 has a legitimate educational interest for purposes of the District disclosing to K12 the Program student's educational records.
2. K12 will maintain student educational records pertaining to students enrolled in the Program in the manner required by Applicable Law, and retain such records on behalf of District until this Agreement is terminated, at which time such records will be retained by and become the sole responsibility of District.
3. Ensure accessibility of Program educational records to the District, its independent auditor and the State for completion of audits required by Applicable Law. The Parties understand that all Program-related Student educational records are the property of the District.

K. Student Discipline. Provide necessary information and cooperate with District on the handling of student disciplinary matters, including without limitation attendance and truancy matters where applicable pursuant to Applicable Law, this Agreement and District policies. K12 will recommend policy and procedures for District adoption consistent with Applicable Law and the body of this Agreement.

L. Teacher Training and Development. Develop and offer new Teacher training and professional development for Teachers consistent with what K12 offers similarly situated programs. Host Teacher professional development sessions throughout the school year for new and returning Teachers. Recommend enhancements to the Program's Teacher Handbook for review and approval by the District.

M. Instructional Property Assistance. Prepare and submit to the District (or its designees) proposed policies and procedures regarding the responsible use of equipment and other instructional property. Arrange for the distribution and re-shipment or return (as necessary) of equipment for families, administrators, and teachers, to the extent provided by or on behalf of K12 as agreed in writing.

N. Grants and Donations. On behalf of the District, K12 may solicit and receive grants and donations for the Program from public funds through competitive or non-competitive processes, and private sources consistent with the Program's objectives; provided, however, that any solicitation of such grants and donations by K12 will be subject to the approval of the Program and such fund shall be used as designated.

O. Additional Administrative Services. Any other services as agreed to in writing by the Parties from time to time.

III. Technology Services. During the Term, K12 and its Affiliates will provide or cause to be provided to the District for the Program the technology services (the "**Technology Services**") described below. Notwithstanding the forgoing, none of the Technology Services shall be provided for the purpose of benefiting the Program or any personnel or students for any school year beyond the expiration or earlier termination of this Agreement.

- A. 24-7 monitoring of production services, i.e., SAMS and the on-line learning management system;
- B. Monitor and analyze system data to fix production issues as they may arise;
- C. Generate reports on pupil academic performance, attendance and progress;
- D. Seek and secure competitive pricing and centralized purchase discounts for computers, monitors, printers, software and other peripherals for the Program;
- E. Train Program staff, as deemed appropriate and necessary, on technology systems;
- F. Develop, design, publish, and maintain the Program's interactive website;
- G. Install and maintain the Program's computer network;
- H. Generate reports;
- I. Develop community tools on the Program's website and K12 platform (including password protected threaded discussion and message boards, moderation functionality, directories, etc.);
- J. Determine hardware configurations (including software and operating systems) for the Program's technology needs;
- K. Provide onsite and telephone support for the Program administration in troubleshooting system errors, and telephone support for students;
- L. Propose for the Program adoption policies and procedures regarding the responsible use of computer equipment and other Program property;
- M. Support teachers and Program care associates in answering technology-related questions from students, parents, teachers, and administrators;
- N. Install software to generate master image of computer configurations for teachers, administrators, and students in order to standardize the user experience and lower costs and turn-around time for implementation and troubleshooting;
- O. Ensure electronic security of student records (through the use of encryption, firewalls, etc.);

- P. Provide a Web-filtering device to ensure that students do not have access to inappropriate materials on the Internet;
- Q. Prepare for, supervise, and implement system roll-overs at the end of the academic year;
- R. Design and implement inventory management systems with the Program's distribution and hardware vendors, as well as reclamation programs, as needed;
- S. Provide online enrollment, registration and placement services;
- T. Provide Program email accounts for Program employees;
- U. Provide Program care and technology support services on the learning management system, computer and software issues;
- V. Oversee changes to the Program website to maintain quality assurance and make sure that there are not "version control" problems;
- W. Along with our K12 Marketing department, coordinate security, creative, and content issues pertaining to the website;
- X. Coordinate Web hosting contracts and relationships with vendors across the State as needed;
- Y. Handle troubleshooting issues for the Program's website and send issues to the appropriate person or district for resolution; and
- Z. Additional Technology Services in K12's discretion and any other services as agreed to in writing by the Parties from time to time.

EXHIBIT B**K12 Proprietary Marks**

Trademark Quality Control – Restricted Content: The Company shall not use the K12 Proprietary Marks in connection with harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, hateful or otherwise offensive material, or in any manner that would be likely to tarnish or adversely impact the reputation, quality, value and goodwill associated with K12 and/or the K12 Proprietary Marks.



DESTINATIONS
CAREER ACADEMY

POWERED BY K12



fuelededucation®

fueled®

Big Universe®

powerspeak™



learnbop

peak™



m
middlebury
interactive languages™

Personalized Education. Limitless Learning

EXHIBIT C

Form Notice of Intent

As set forth in Section 20, this form notice (or a substantially similar version) is required if a Party desires to invoke its rights under Section 7.2(a).

* * * * *

Date: _____

To: *[Party's addressee in Section 20]*

Re: Educational Products and Services Agreement ("Agreement") - Notice of Intent

To Whom It May Concern:

The _____ [Board of Education ("Board") of the Gallup-McKinley School District – *or* – K12 Virtual Schools LLC ("K12")] is providing this notice in accordance with Section 20 of the Agreement between the Board and K12. This notice is provided solely to preserve our right to discuss renewal terms in consideration of a contract extension, before the Agreement automatically renews as set forth in Section 7.2(a).

Until any amendment to the Agreement is fully executed by the Parties' authorized signatories, the terms of the Agreement shall remain unchanged. If we desire to memorialize proposed edits to the Agreement, if any, we will contact your authorized designee within two (2) weeks from the date of this notice. At such time we agree to undertake good faith discussions to renew the Agreement under similar or substantially similar terms to avoid disruption to the Program's staff, families and Teachers.

Sincerely,

[Applicable Party's Representative]

cc: *[As applicable]*

25.8. No Third-Party Rights. This Agreement is made for the sole benefit of the District and K12 and their respective successors and permitted assigns. Except as set forth in Sections 14 and 16 and except for each Affiliate of K12, which shall be a third party beneficiary of this Agreement, nothing in this Agreement will create or be deemed to create a relationship between the Parties to this Agreement, or any of them, and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

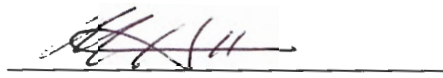
25.9. Survival of Termination. All representations, warranties, and indemnities expressly made in this Agreement will survive termination of this Agreement.

25.10. Headings and Captions. The headings and captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement.

IN WITNESS WHEREOF the Parties have entered into this Agreement as of the date set forth below.

**For and on behalf of
GALLUP-MCKINLEY SCHOOL DISTRICT**

Signed:



Name:

Mike Hatt

Position:

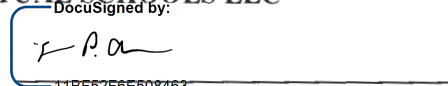
Superintendent

Date:

6-15-20

**For and on behalf of
K12 VIRTUAL SCHOOLS LLC**

Signed:


DocuSigned by:
11BF52F6E508463...

Name:

Kevin Chavous

Position:

President, Academics, Policy & Schools

Date:

6/16/2020